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IN THE

Supreme Court of the United States

OCTOBER TERM, 1938

No. 541

JOHN CARRIER and J. HARVEY CARPENTER, Guardian of JOHN CARRIER, INCOMPETENT VETERAN,
Petitioners,

v.

CURLEY BRYANT, *Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NORTH CAROLINA

BRIEF FOR THE RESPONDENT IN OPPOSITION

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Printed by Law Reporter Ptg. Co., 518 5th St., Washington, D. C.

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BRIEF FOR THE RESPONDENT IN OPPOSITION

Opinions Below

The opinion of the Supreme Court of North Carolina (R. 8-16) is reported in 214 N. C. 174, 198 S. E. 651. The judgment of the Superior Court of Rutherford County, North Carolina (R. 5, 6, 7) is not separately reported, but is set forth in the report of the case in the Supreme Court of North Carolina (R. 9, 10), 214 N. C. 174-5. The connected case in which respondent recovered judgment against petitioner for Fifteen Hundred ($1500.00) Dollars for criminal conversation, is reported in 214 N. C. 191, 198 S. E. 619 (R. 9).

Questions Involved

ARE INVESTMENTS IN NEGOTIABLE NOTES AND IN UNITED STATES BONDS PURCHASED WITH "PAYMENTS OF BENEFITS" UNDER THE LAWS RELATING TO WORLD WAR VETERANS (38 U. S. C. A., Section 454-a) EXEMPT FROM EXECUTION ON A JUDGMENT AGAINST THE VETERAN?

Statement of the Case

At the 1938 June-July Term of the Superior Court of Rutherford County, respondent obtained judgment against petitioner and his guardian, in the amount of Fifteen Hundred ($1500.00) Dollars (R. 1, 3). (This judgment affirmed by the Supreme Court of North Carolina, 214 N. C. 191, 198 S. E. 619, 1938.) This judgment represents One Thousand Dollars actual and Five Hundred Dollars punitive damages awarded respondent on account of criminal conversation between petitioner and respondent's wife (R. 1, 3, 6).

Petitioner, a World War veteran, owns United States Government bonds in the principal amount of Eight Thousand Three Hundred and Fifty ($8,350.00) Dollars, and negotiable notes of the face value of Three Thousand Nine Hundred Ninety-seven ($3,997.00) Dollars (R. 4, 5). These are listed by petitioner's guardian as "Investments" (R. 4) and were found by the trial Court to be "Investments" (R. 6). The trial Court further found and it is undisputed, that these investments were made for petitioner by his guardian from the proceeds of moneys paid to him by the United States Government on account of his disability incurred and insurance in the World War (R. 6).

Respondent issued execution on his judgment against petitioner (R. 1, 3). Petitioner then moved for an injunction to stop respondent's seizure and sale under execution, on the ground that petitioner's bonds and notes were

not subject to seizure and sale under Section 454a of Title 38, U. S. C. A. (R. 1, 2). The Superior Court of Rutherford County held that petitioner's bonds and notes were subject to seizure and sale under execution issued upon respondent's judgment (R. 5, 7). The Supreme Court of North Carolina affirmed this decision (R. 8-16).

ARGUMENT

I

THE ONLY QUESTION PRESENTED IS WHETHER THE SUPREME COURT OF NORTH CAROLINA WAS CORRECT IN HOLDING THAT THE UNITED STATES BONDS AND NEGOTIABLE NOTES OF THE PETITIONER ARE SUBJECT TO AN EXECUTION ISSUED BY RESPONDENT ON RESPONDENT'S JUDGMENT AGAINST PETITIONER.

Respondent respectfully submits that the controlling principles of law which govern the disposition of the present case have already been laid down by this Court in two cases, that is, in the case of *Trotter* v. *Tennessee,* 290 U. S. 354, 78 Law Ed. 358 (1933), and in the case of *Lawrence* v. *Shaw,* 300 U. S. 245, 81 Law Ed. 623 (1936). Respondent further respectfully submits that the Supreme Court of North Carolina decided the present case squarely in accord with the principles of law laid down by this Court in these two cases.

Title 38, U. S. C. A., Section 454, read:

> "*Assignability and exempt status of compensation, insurance, and maintenance and support allowances.* The compensation, insurance, and maintenance and support allowance payable under Parts II, III, and IV, respectively, shall not be assignable; shall not be subject to the claim of creditors of any person to whom an award is made under parts II, III, or IV; *and shall be exempt from all taxation.* Such compensation, in-

surance, and maintenance and support allowance shall be subject to any claims which the United States may have, under Parts II, III, IV, and V, against the person on whose account the compensation, insurance, or maintenance and support allowance is payable." (Italics ours.)

It will be noted that the above section provided: "and shall be exempt from all taxation."

In the case of *Trotter* v. *Tennessee*, 290 U. S. 354, 78 L. Ed. 358 (1933), decided under the above statute, the facts were:

A veteran in Tennessee purchased land with money received from the United States Government as compensation for his services in the World War. The State of Tennessee sought to tax this property. This Court held that when the veteran invested his money in land, the money lost its identity as money, and lost its immunity under the statute.

At page 360, Law Edition, *Mr. Justice Cardozo*, writing for the Court, says:

"The moneys payable to this soldier were unquestionably exempt till they came into his hands or the hands of his guardian. *McIntosh* v. *Aubrey*, 185 U. S. 122, 46 L. Ed. 834, 22 S. Ct. 561. *We leave the question open whether the exemption remained in force while they continued in those hands or on deposit in a bank. Cf. McIntosh* v. *Aubrey*, supra; *State ex rel. Smith* v. *Shawnee County*, 132 Kan. 233, 294 Pac. 915; *Wilson* v. *Sawyer*, 177 Ark. 492, 6 S. W. (2d) 825, and *Surace* v. *Danna*, 248 N. Y. 18, 24, 25, 161 N. E. 315. *Be that as it may, we think it very clear that there was an end to the exemption when they lost the quality of moneys and were converted into land and buildings. The statute speaks of 'compensation, insurance, and maintenance and support allowance payable' to the veteran, and declares that these shall be exempt. We see no token of a purpose to extend a like immunity to permanent investments or the fruits of business enterprises. Veterans who choose to trade in land or*

in merchandise, in bonds, or in shares of stock, must pay their tribute to the State. If immunity is to be theirs, the statute conceding it must speak in clearer terms than the one before us here.

"The judgment of the Supreme Court of Tennessee disallowing the exemption has support in other courts. State v. *Wright,* 224 Ala. 357, 140 So. 584; *Martin* v. *Guilford County,* 201 N. C. 63, 158 S. E. 847, 76 A. L. R. 978. *There are decisions to the contrary, but we are unable to approve them. Rucker* v. *Merck,* 172 Ga. 793, 159 S. E. 501; *Atlanta* v. *Stokes,* 175 Ga. 201, 165 S. E. 270; *Payne* v. *Jordan,* 36 Ga. App. 787, 138 S. E. 262.

"Our ruling in Spicer v. Smith, 288 U. S. 430, 77 L. Ed. 875, 53 S. Ct. 415, 84 A. L. R. 1525, leaves no room for the contention that the exemption is enlarged by reason of payment to the guardian instead of payment to the ward.

"The judgment is affirmed." (Italics ours.)

The above section of the statute under which the case of Trotter v. Tennessee, supra, was decided, was repealed in 1935, and the following enacted in its place:

"454a. *Assignability and exempt status of payments of benefits.*

"Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. Such provisions shall not attach to claims of the United States arising under such laws nor shall the exemption herein contained as to taxation extend to any property purchased in part or wholly out of such payments." (Aug. 12, 1935, c. 510, paragraph 3, 49 Stat. 609)." (38 U. S. C. A., Section 454a.)

It will be noted that in the statute next above cited, the moneys paid by the Government to the veteran are denominated as "payments of benefits," and the statute provides that the "payments of benefits" to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever. The last sentence provides that the exemption shall not attach to claims of the United States, nor shall the exemption as to taxation extend to any property purchased in part or wholly out of such payments. This last provision was clearly put in the statute for the purpose of clarifying the same in accordance with the decision of this Court in the case of *Trotter* v. *Tennessee*, supra.

In *Lawrence* v. *Shaw*, 300 U. S. 245, 81 L. Ed. 623 (1936), decided under the 1935 Act, upon an appeal from the Supreme Court of North Carolina, *Mr. Chief Justice Hughes*, writing for the Court, says, at page 626, L. Ed.:

> "The World War Veterans' Act, 1924, provided that the compensation and insurance allowances should be 'exempt from all taxation.' The Act of 1935 is more specific, providing that the payments shall be exempt from taxation and shall not be liable to process 'either before or after receipt by the beneficiary.' There was added the qualification that the exemption should not extend 'to any property purchased in part or wholly out of such payments.' This more detailed provision was substituted for that of the earlier Act and was expressly made applicable to payments theretofore made. *We think it clear that the provision of the later Act was intended to clarify the former rather than to change its import and it was with that purpose that it was made retroactive.*" (Italics ours.)

The language of this Court clearly shows that the Act of 1935 was passed merely for the purpose of clarifying the former Act, and in no way to change its import. The facts in the case of *Lawrence* v. *Shaw*, supra, were as follows:

A World War veteran had on deposit in North Carolina moneys which represented and in fact were the collections from warrants or checks drawn and issued by the United States Government in payment of his compensation and insurance. The County of Hertford, in North Carolina, attempted to levy a tax on the money of the veteran on deposit in the bank. This Court held that under the provisions of the Act of 1935, this tax could not be levied for the reason that the money while on deposit in the bank had not lost its character as "payments of benefits." The Court held that the "payments of benefits" were exempt under the Act of 1935, both before and after receipt by the beneficiary, as expressly provided in the Act. The Court then reasoned that the beneficiary was not bound to carry the money around in his pocket, but might deposit the same in a bank. However, the Court cited the case of *Trotter* v. *Tennessee* with approval, and indicated that it would adhere to its decision in the *Trotter* case to the effect that when "payments of benefits" are invested they lose their character as such and are subject to taxation.

In the *Lawrence case*, the Court says, at page 626, L. Ed. (Vol. 81):

> "In *Trotter* v. *Tennessee*, 290 U. S. 354, 78 L. Ed. 358, 54 Supreme Ct., 138, supra, we considered the provisions of paragraph 22 of the World War Veterans' Act, 1924, in relation to investments by the guardian of an incompetent veteran of the moneys received from the Government for compensation and insurance. We held that land purchased by the guardian with such moneys was not exempt. We said: 'The statute speaks of "compensation, insurance, and maintenance and support allowance payable" to the veteran, and declared that these shall be exempt. *We see no token of a purpose to extend a like immunity to permanent investments or the fruits of business enterprises. Veterans who choose to trade in land or in merchandise, in bonds or in shares of stock, must pay their tribute to the State.*' "

The Court continues, on page 627, L. Ed.:

> *"The provision of the Act of 1935 that the exemption should not apply to property purchased out of moneys received from the Government shows the intent to deny exemption to investments, as was ruled in the* Trotter *case. It is of course true that deposits in bank may be made under special agreement by which the deposits assume the character of investments and would lose immunity accordingly. No such agreement is shown here. Nor are the bank balances shown to be the proceeds of investments. They are stipulated to be 'uninvested balances' of the government payments.* . . . We hold that the immunity from taxation does attach to bank credits of the veteran or his guardian which *do not represent or flow from his investments but result from the deposit of the warrants or checks received from the Government when such deposits are made in the ordinary manner so that the proceeds of the collection are subject to draft upon demand for the veteran's use.* In order to carry out the intent of the statute, the avails of the government warrants or checks *must be deemed exempt until they are expended or invested.*
>
> "The answer by the state court is broad enough to cover bank deposits of that sort and we consider the ruling in that application to be contrary to the federal statute." (Italics ours.)

We respectfully submit that it is clear from the holding of this Court in the case of *Trotter* v. *Tennessee*, supra, and in the case of *Lawrence* v. *Shaw*, supra, that the Court intended to lay down the rule that investments of a World War veteran are subject to taxation and to the claims of veteran's creditors. Further, that the Court in these two cases draws a clear line of demarcation between "payments of benefits" (money paid by the United States Government to the veteran) on the one hand, and permanent investments and fruits of a business enterprise on the other. These two cases hold the "payments of benefits" exempt from taxation and from claims of creditors both before and after

receipt by the veteran; they deny exemption from taxation or from claims of creditors to permanent investments or the fruits of business enterprises.

Petitioner asks the Court to hold that his permanent investments are subject to taxation but exempt from the claims of his creditors. No such classification or distinction is made in the Act itself or in the cases of *Trotter* v. *Tennessee* and *Lawrence* v. *Shaw,* supra. It is respectfully submitted that when the Supreme Court of North Carolina held in the present case that petitioner's bonds and notes were subject to execution, it correctly applied the principles set forth in the *Trotter case* and in the *Lawrence case* to the facts in the instant case.

II

PETITIONER IN HIS BRIEF ADVANCES THREE DISTINCT ARGUMENTS TO SUSTAIN HIS POSITION THAT HIS PERMANENT INVESTMENTS OF BONDS AND NOTES ARE NOT SUBJECT TO SALE UNDER EXECUTION TO ENFORCE PAYMENT OF RESPONDENT'S JUDGMENT (Petitioner's Brief, p. 9).

Petitioner's First Point

Petitioner's first point is that the judicial and legislative history of Section 454a clearly shows that it was the intent and purpose of Congress to exempt permanent investments from claims of creditors. We respectfully submit that just the opposite is true. R. S. 4747 read:

> "54. Attachment, levy, or seizure of moneys due pensioners prohibited. No sum of money due, or to become due, to any pensioner, shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner."

This statute was construed in *McIntosh* v. *Aubrey*, 185 U. S. 122, 22 Sup. Ct. 561, 46 L. Ed. 834 (1901). The Court held that under this section the permanent investments or property of veterans were not exempt from the claims of his creditors.

Section 454, Title 38, U. S. C. A., was construed by this Court in the case of *Trotter* v. *Tennessee*, supra, and was construed by the Supreme Court of North Carolina in the case of *State Hospital* v. *Bank*, 207 N. C. 697, 178 S. E. 487 (1934). This case held that permanent investments of the veteran were not exempt from claims of creditors. This Court denied certiorari. 295 U. S. 761, 55 Sup. Ct. 921, 79 L. Ed. 1704.

The Act of 1935, Title 38, U. S. C. A., Section 454a, was construed by this Court in the case of *Lawrence* v. *Shaw*, supra, which decision we have hereinabove reviewed, and has been construed in the case of *McCurry* v. *Peeke*, 54 Ga. App. 341, 187 S. E. 854 (1938). In the McCurry case, the question involved was identical with the question involved in the present case. The Georgia Court states the question thus:

> "The question for determination in this case is whether land purchased with the 'payments of benefits' under the laws relating to World War Veterans, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure, by or under any legal or equitable process whatever."

The Georgia Court held that when the veteran in question invested his "payments of benefits" in land or other property, that the property so purchased was subject to the claims of the veteran's creditors and could be sold under execution. This case, as persuasive authority, is directly in point. We quote from the Georgia Court, page 855, S. E., as follows:

> "(1, 2.) Section 3 of the act of August 12, 1935, which repealed the above Section 4747, applies to 'pay-

ments of benefits' due and to become due, such as payments of compensation, adjusted compensation, pensions, emergency officers' retirement pay, or insurance under any act administered by the veteran's administration, etc., and makes these payments immune from levy or seizure by any legal or equitable process, not only before (as stated in repealed Section 4747), but also after receipt. The act of 1935 speaks of 'payments of benefits' to veterans and declares they shall be exempt before or after receipt by the beneficiary. What is exempt under this last act? The 'payment of benefits,' and in this case the 'payment of benefits,' was made in money, and the money even after its receipt by the beneficiary was exempt and the beneficiary might have used the money in any manner, for his own benefit and to secure the comfort of his family, free from attacks of creditors. But when the beneficiary uses this money to buy real estate, the money paid as a benefit under the World War Veterans' Act (43 Stat. 607, as amended, 38 U. S. C. A., paragraph 421, et seq.), loses its quality and identity, and is transmuted into real estate, and there is an end to the exemption. Should the veteran choose to trade in land, he does so at his own risk, and his land is liable to levy in like manner as the lands of other persons. The mere fact that the real estate was purchased with the 'benefit payments' received by the war veteran would not exempt the real estate from levy under an execution. In the first sentence of Section 3 of the acts of 1935, there is an exemption from taxation, and an exemption from the claims of creditors, and there is a statement that the payment of benefits 'shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.' There is no such exemption upon any other property even though the property be purchased out of the 'payment of benefits.' It was therefore necessary to provide further in the next sentence of the 1935 act, that the exemption therein contained 'shall not as to taxation extend to any other property purchased in part or wholly out of said payments. This last provision must have been incorporated therein as a matter of precaution to make matters doubly sure

that such property purchased with 'benefit payments' was subject to taxation.

"In writing the second sentence of the third section of the act of 1935, the framers of the act seem to have had in mind only the relationship of the government or governments to the 'benefit payment,' and were not attempting to deal with any other claims; and a failure to mention other claims does not signify anything with reference to them. Under Section 3 of the act of Congress approved August 12, 1935, the World War veteran's real estate was not exempt from levy, notwithstanding the real estate was purchased with 'benefit payments' received from the United States.

"Judgment affirmed."

Hence, it is apparent that all three of the acts relating to this subject have been construed, and have been construed just as respondent contends the present Act should be construed in this case. That is, to the effect that permanent investments and property of a World War veteran are subject to execution and sale at the instance of his creditors.

Petitioner, on page 11 of his brief, cites the following cases among others: *Payne* v. *Jordan*, 36 Ga. App. 787, 138 S. E. 262; *Rucker* v. *Merck*, 172 Ga. 793, 159 S. E. 501. It is well to note that these two cases in particular, and therefore other cases of like import, were expressly disapproved by this Court in the case of *Trotter* v. *Tennessee*, 290 U. S. 354, 78 L. Ed. 358 (1933), the exact language of the Court being as follows:

"The judgment of the Supreme Court of Tennessee disallowing the exemption has support in other courts. State v. *Wright*, 224 Ala. 357, 140 So. 584; *Martin* v. *Guilford County*, 201 N. C. 63, 158 S. E. 847, 76 A. L. R. 978. *There are decisions to the contrary, but we are unable to approve them. Rucker* v. *Merck*, 172 Ga. 793, 159 S. E. 501; *Atlanta* v. *Stokes*, 175 Ga. 201, 165 S. E. 270; *Payne* v. *Jordan*, 36 Ga. App. 787, 138 S. E. 262."

It is respectfully submitted that the history of the enactment of Section 454a, Title 38, U. S. C. A., clearly indicates that permanent investments or fruits of business enterprises are not exempt from execution on claims of creditors of the veteran.

Petitioner's Second Point

Petitioner's second point is that under the well-settled principles of statutory construction, the logical construction of Section 454a is that it exempts not only the benefits paid but also the proceeds thereof invested in the usual form from the claims of creditors and attachment. Here again, we respectfully submit that the proper construction shows just the contrary.

Where the language of the statute is plain and unambiguous, there is no room for construction, and it is the duty of the Court to enforce the statute as it is written. It is only when the language of the statute is doubtful or subject to two or more conflicting interpretations that the Court may undertake to interpret or construe it. We respectfully submit that there is no such ambiguity of terms in the statute involved in the present case. The statute purports to deal with "assignability and exempt status of payments of benefits." The first sentence of the statute reads as follows: "Payments of benefits due or to become due, shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary." This first sentence grants the exemption, and if read by itself, it is quite apparent that the exemption referred to applies only to "payments of benefits." No mention is made of anything being exempt in this first sentence except "payments of benefits." Nothing in this sentence attempts

to deal with property or investments of the veteran. This sentence certainly does not exempt or even mention any property acquired by the veteran whether purchased out of "payments or benefits" or whether obtained by other means. This sentence exempts nothing but "payments of benefits." The second sentence clearly refers to the first sentence and attempts to state wherein the exemptions granted in the first sentence shall not apply. This sentence reads as follows: "Such provisions shall not attach to claims of the United States arising under such laws nor shall the exemption herein contained as to taxation extend to any property purchased in part or wholly out of such payments." It is quite obvious that the last clause of this sentence with reference to taxation was put in only as an additional safeguard for the purpose of being sure that the statute complied with the rule laid down by this Court in the case of *Trotter* v. *Tennessee*, supra. Nowhere in this statute is anything said about property, investments, or anything except "payments of benefits" being exempt from the claims of creditors. To construe the statute as contended by petitioner, this Court would have to read into the statute an additional sentence or clause to the effect that all property and all permanent investments of a veteran purchased with funds arising from "payments of benefits" shall be exempt from the claims of creditors, and shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatever. We respectfully submit that no such clause or language appears in the statute; that the language of the statute is clear; that this being so, there is no room for interpretation or construction, or going back of the plain words of the statute to delve into the legislative intent as expressed by members of a subcommittee or by any report of the subcommittee. *Penna. Railroad Company* v. *International Coal Mining Company*, 230 U. S. 184, 33 Sup. Ct. 893, 57 L. Ed. 1446 (1912).

We respectfully submit that the proper rule of statutory construction clearly shows that the Supreme Court of North

Carolina was entirely correct in holding that under the statute in question—38 U. S. C. A., Section 454a—the bonds and notes of the petitioner are subject to sale under execution at the instance of respondent.

Petitioner's Third Point

Petitioner's third point is that the statute being within the constitutional power of the Congress is controlling, and should be liberally construed to accomplish the intent and purpose thereof.

Respondent quite agrees that the statute is controlling. However, the disagreement arises with reference to what the intent and purpose of the statute was. Respondent respectfully submits that the statute intended to exempt "payments of benefits" and "payments of benefits" alone, and does not deal with and did not intend to deal with permanent investments purchased by a veteran out of moneys paid him by the United States Government. Petitioner argues that it is the purpose of the act to protect the veteran from the claims of his creditors and attempts to draw a distinction between moneys expended and moneys invested. Petitioner's brief on page 25 thereof, refers to moneys actually expended for food and clothing and asks, "Should the veteran and his family starve or freeze or be made objects of charity because creditors exact their due?" Petitioner then argues that the Congress has established a public policy to protect the veteran in his enjoyment of his pension under such circumstances. Petitioner has overlooked the fact entirely that under the decision of this Court in the case of *Trotter* v. *Tennessee*, supra, and in the case of *Lawrence* v. *Shaw*, supra, a disabled veteran may keep all of the money paid him by the Government in the bank subject to his draft at any time for such things as he and his family may need, and that while in the bank they are not subject to taxation or to the claims of creditors.

Article 10, Sections 1, 2 and 3 of the Constitution of North Carolina (set out in full in the Appendix hereto) provide

that every resident of the State shall have a Five Hundred ($500.00) Dollar personal property exemption and One Thousand ($1,000.00) Dollars homestead (real property) exemption. The veteran would have the same exemption here as any other citizen in the State, and his side of meat about which petitioner seems so concerned and the other necessities of life would be protected from levy under execution by the homestead and personal property exemptions provided for the North Carolina Constitution, and the laws passed pursuant thereto. However, there is considerable difference between the case supposed by petitioner of a purchase by the veteran of the necessities of life, and a permanent investment made by the veteran or a business enterprise embarked upon by the veteran. In the first instance, the veteran is spending his money to supply himself with the necessary things of life, that is, food, clothing and shelter. In the second, he is investing the surplus for the purpose of making a profit, whether the same be interest, common stock dividends, or any other profit which may accrue to him from any form of investment he might make. The very term "investments" indicates that the veteran has a surplus over and above that needed for food and clothing and for the necessities of life. Otherwise, there would be nothing to invest. It is submitted that there is no good reason why this surplus should be exempt from execution and from the just claims of the veteran's creditors. Surely the just debts of the veteran should stand, in the eyes of the law, as nearly as possible on an equal footing with the just debts of every other person.

Conclusion

It is respectfully submitted that the principles of law which govern the present case have been laid down and settled by this Court in the case of *Trotter* v. *Tennessee*, supra, and in the case of *Lawrence* v. *Shaw*, supra.

It is further respectfully submitted that the Court below decided the present case in accordance with the principle laid down in these two cases; that the judgment of the lower Court is entirely correct, and that a review of the case by this Court is not necessary. Respondent, therefore, respectfully requests that the Writ of Certiorari be not granted.

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APPENDIX

North Carolina Constitution

ARTICLE X

Homesteads and Exemptions

Section 1. *Exemptions of personal property.* The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court, issued for the collection of any debt.

Section 2. *Homestead.* Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town, or village with the dwelling and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes or for payment of obligations contracted for the purchase of said premises.

Section 3. *Homestead exemption from debt.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children, or any of them.

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